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REMARKS

Applicants thank the Examiner for the thorough consideration given the present application. Claims 1-18 are pending, of which claims 1, 15, and 16 are independent; and claims 1, 3, and 4 are amended.

Claims 15-18 are added to secure the appropriate scope of protection to which Applicants believe they are entitled. Independent claim 15 is directed to an automaton for providing content to media channels established with respect to a network communication session with an endpoint entity, the automaton having a combination of elements, including a media content handler delivering media content of a particular media type based on a media type of one of the established media channels; a session transport system arranged to connect the media content handler to a corresponding media channel in accordance with channel information received by the automaton; a manager system arranged to cause (1) the session transport system to connect an appropriate media content handler to a corresponding media channel, and (2) the media content handler to present selected content to an appropriate media channel, the manager system being responsive to received (a) context data about the network communication session and (b) channel information about media channels established for the network communication session, the

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channel information including media type carried by the media channels, and channel connection details.

Independent claim 16 is directed to a method for providing content to media channels established in respect of a network communication session between an endpoint entity and a contact center, the method having a combination of steps, including establishing a media channel connection to a session transport mechanism associated with the network communication session responsive to receipt of channel information about media channels established for the network communication session, the channel information including the media type carried by the media channels and channel connection details; and providing appropriate media content to a corresponding media channel established by said establishing step responsive to receipt of context data about the network communication session and based on the channel information.

Dependent claim 17 is directed to a computer-readable medium for storing instructions which, when executed by a processor, causes the processor to perform the steps of claim 16, and dependent claim 18 is directed to a device for performing the steps of claim 16.

The foregoing amendments render moot the rejection of claims 3 and 4 under 35 U.S.C. §112, second paragraph, as being indefinite. Withdrawal of the rejection is respectfully requested.

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Applicants traverse the rejection of claims 1-9 under 35 U.S.C. §103(a) as being unpatentable over Amin et al. (U.S. 6,714,987) in view of Goode et al. (U.S. 6,166,730).

Amin fails to describe a content-provider entity for providing content to media channels established in respect of a network communication session between an endpoint entity and a contact center. FIG. 14 of Amin depicts a diagram of a functional component interaction sequence flow including ten sequences (1-10). However, Amin does not disclose or suggest the content-provider entity set forth in independent claim 1. In particular, sequences 1-10 appear to relate to the establishment of a communication session between a mobile host and a service session without disclosing a content-provider entity providing content to media channels in respect of the communication session between the mobile host and service session.

Amin also fails to describe an entity manager as set forth in amended independent claim 1. Amin's connection management function (column 17, line 65, through column 18, line 14) "facilitates in establishing [a] transport session." In contrast, the entity manager of amended independent claim 1 is configured to receive context data about a communication session between an endpoint entity and a contact center, as well as channel information about channels established for the communication session.

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Further, Amin does not describe a media subsystem providing the respective media handler set forth in amended independent claim 1. Amin refers to a call server taking "the role of media gateway controller" without identifying the provision of a media handler. Column 29, lines 58-60. The call server of Amin does not include a media handler of a type appropriate for each media channel connection established by the transport subsystem, wherein each media handler serves to deliver media content of its associated type from a media source to a corresponding channel connection. Any speculation by the Examiner regarding further capabilities of Amin's call server must fail with no support identified in the Office Action or found in the Amin description.

The Examiner admits that Amin fails to disclose a media subsystem including a delivery controller for controlling the selection and delivery of media content through the media handlers in dependence on the context data. However, the Office Action incorrectly asserts that Goode discloses "a controller . . . operating under the control of a DVM . . . and that each DVM[] combines the downstream command information produced by the controller." Office Action, page 4, second full paragraph. In fact, Goode states that the controller operates "under control of the DVM interface 222." Goode, column 7, lines 30-31. Contrary to the assertion in the Office Action, DVM interface 222 is not a part of

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the DVM; rather, the recited DVM interface 222 is contained in controller module 216. Further, "the output module 214, e.g., a coax cross connect unit, combines the downstream information channel with the downstream command information" and not the DVM as alleged in the Office Action.

Nor does the Office Action identify any disclosure in Goode of a delivery controller for controlling the selection and delivery of media content through media handlers **in dependence on context data**. The Examiner is requested to specifically identify where in the reference the aforementioned claim limitation is found.

Further still, with respect to the asserted combination of Goode with Amin, the Office Action erroneously contends that it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to combine Goode with Amin (a) because they are from "the same field of endeavor" and (b) to control "signaling gateway and media gateway components that interface with the PSTN."

With respect to (b), the Office Action fails to identify any teaching, suggestion, or motivation in either reference disclosing or suggesting the combination of Goode with Amin for the purpose of improving the ability of the Amin network to control components that interface with the public switched telephone network. No rationale is provided to explain why a person of ordinary skill in the art at

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the time of the present invention would be motivated to look to the disclosure of Goode (concerning control of information service delivered to televisions via a cable network) in order to improve the ability of Amin to interface with the public switched telephone network (PSTN).

Merely stating that the combination of prior art to meet a claimed invention would have been well within the ordinary skill of the art is not sufficient to establish a *prima facie* case of obviousness without some objective reason to combine the teachings of the references. See MPEP 2143.01, quoting *Ex parte Levengood*, 28 USPQ2d 1300 (BPAI 1993). The Office Action erroneously states that the references can be combined (and Appellants maintain they cannot), and does not state any desirability for making the combination. In other words, the Office Action fails to supply any objective reasons to combine the applied references.

In accordance with MPEP §2143.01 and *Al-Site Corp. v. VSI Int'l Inc.*, 174 F.3d 1308, 50 U.S.P.Q.2d 1161 (Fed. Cir. 1999), the Examiner is requested to identify a teaching, suggestion, or motivation in either reference or to provide an affidavit of facts within the personal knowledge of the Examiner per MPEP §2144.03 providing a motivation or suggestion to one of ordinary skill in the art to make the argued combination. The Office Action fails to identify any disclosure in Amin or Goode motivating or suggesting the

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asserted combination to a person of ordinary skill in the art, nor has the Examiner provided requisite affidavit, because there is no teaching to be found. For at least this reason, the rejection should be withdrawn.

"When an obviousness determination is based on multiple prior art references, there must be a showing of some 'teaching, suggestion, or reason' to combine the references." *Winner International Royalty Corp. v. Wang*, 53 U.S.P.Q.Q.2d 1580, 1586 (Fed. Cir. 2000). No such showing in support of the applied combination of references has been made; therefore, the applied combination of references is improper. The rejection is in error for any of the above reasons, and a *prima facie* case of obviousness has not been established. Accordingly, independent claim 1, as filed and as amended, is believed to be allowable over the applied combination of references. Withdrawal of the rejection is in order and respectfully requested.

Claims 2-9 depend from allowable claim 1, include additional important limitations, and are patentable over the applied combination of references for at least the reasons advanced above with respect to claim 1. Withdrawal of the rejection of claims 2-9 is respectfully requested.

With specific reference to claim 2, Goode fails to provide a content library providing media sources of different media type as

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recited in Applicants' claim 2. Goode is directed to a video-on-demand system and includes an optical disk library (referenced by the Examiner) as an off-line storage system for storing program information. The Goode off-line storage system appears to be a media source of a single media type. As the Office Action fails to identify a content library providing media sources of different media types for use by media handlers, the rejection of claim 2 is requested to be withdrawn for this additional reason.

Regarding claim 3, the assertion that Amin teaches the recited delivery controller is not understood in view of the admission in the Office Action with respect to claim 1 that Amin fails to teach a delivery controller. The reference to column 19, lines 22-51, is also not understood as Applicants' review of the identified text fails to uncover any support in Amin for the recited subject matter of claim 3. For example, there is no description of a delivery controller determining at least an initial content to be delivered on a media channel connection. For at least this reason and the reasons advanced above with respect to claim 1, from which claim 3 depends, the rejection of claim 3 is requested to be withdrawn.

Applicants cannot agree with the assertion in the Office Action that Amin teaches a delivery controller as recited in claim 4 and respectfully note the Examiner's admission with respect to claim 1 that Amin fails to teach a delivery controller. Further, the

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Examiner's reference to column 4, lines 4-14 and 49-63, is also not understood as Applicants' review of Amin has failed to uncover any support in the identified locations for the subject matter of claim 4. More specifically, Amin fails to describe a delivery controller using query results to determine at least the initial content to be delivered on media channel connections. The Examiner-identified locations describe definition of terms, specifically 3G, NG, WAG, and WGW, none of which includes determining initial content to be delivered on media channel connections. For at least this reason and the reasons advanced above with respect to claim 1, from which claim 4 depends, the rejection of claim 4 is requested to be withdrawn.

Concerning claim 5, the assertion that Amin teaches the recited delivery controller is not understood in view of the admission in the Office Action with respect to claim 1 that Amin fails to teach a delivery controller. For at least this reason and the reasons advanced above with respect to claim 1, from which claim 5 depends, the rejection of claim 5 is requested to be withdrawn.

Applicants traverse the rejection of claims 10-13 under 35 U.S.C. §103(a) as being unpatentable over Amin and Goode in view of Zellner et al (U.S. 6,807,564).

Claims 10-13 depend directly or indirectly from claim 1 and are patentable over the applied references for at least the reasons advanced above with respect to claim 1. The arguments advanced above

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with respect to claim 1 are equally applicable and are incorporated herein with respect to claims 10-13.

The Office Action acknowledges that neither Amin nor Goode discloses that the content-provider entity is automatically caused to leave a communication session upon an assistant party joining the session and attempts to cure this deficiency by combining the Zellner reference. However, contrary to the assertion at page 8, line 1, of the Office Action, Zellner is not from the "same field of endeavor," nor does the Office Action supply any motivation or suggestion in the references teaching, suggesting, or describing the asserted combination. Specifically, the Office Action fails to identify why a person of ordinary skill would be motivated to combine Zellner's device for requesting emergency assistance (a panic button) with Amin's communication architecture and Goode's video-on-demand system.

In the Office Action, Goode is generally referred to as providing motivation for the asserted combination of references in order to improve the ability of the network to enable subscribers to control the presentation of information. However, a statement that modifications of the prior art to meet the claimed invention would have been well within the ordinary skill of the art is not sufficient to establish a *prima facie* case of obviousness without some objective reason to combine the teachings of the references. See MPEP 2143.01 quoting *Ex parte Levengood, supra*. The Office Action merely stated

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that the references can be combined, which Appellants contend to the contrary, and does not state any desirability for making the combination. In other words, the Office Action failed to supply any objective reasons to combine the applied references.

In accordance with MPEP §2143.01 and *Al-Site Corp. v. VSI Int'l Inc.*, 174 F.3d 1308, 50 USPQ2d 1161 (Fed. Cir. 1999), the Examiner is requested to identify a teaching, suggestion, or motivation in either reference or to provide an affidavit of facts within the personal knowledge of the Examiner per MPEP §2144.03 providing a motivation or suggestion to one of ordinary skill in the art to make the argued combination. The Office Action neither identifies any basis in Goode, Amin, or Zellner motivating or suggesting the asserted combination to a person of ordinary skill in the art, nor provided the requisite affidavit, because there is no teaching to be found. For at least this reason, the rejection should be withdrawn.

As discussed above, in *Winner International Royalty Corp. v. Wang*, the CAFC held, "When an obviousness determination is based on multiple prior art references, there must be a showing of some 'teaching, suggestion, or reason' to combine the references." A showing in support of the proposed combination of references has not been made. Therefore, the applied combination of references is improper. A *prima facie* case of obviousness has not been established, and the rejection of claim 10 should be withdrawn.

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Additionally, Zellner fails to describe the claimed subject matter of claim 10, i.e., the content-provider entity is automatically caused to leave the communication session upon the assistant party joining the session. The Examiner-identified portion of Zellner describes a user sending an emergency help request message or call to a service support provider without describing a content-provider entity or a content-provider entities actions upon an assistant party joining a communication session.

For at least the foregoing reasons, claim 10 is believed patentable over the applied combination of references, and withdrawal of the rejection is in order and respectfully requested.

The arguments advanced above with respect to claim 10 are equally applicable to claim 11 and are incorporated herein with respect thereto. Further, with specific reference to claim 11, Zellner fails to describe a content-provider entity remaining in a communication session until explicitly dismissed by a party. For at least this reason and the reasons advanced above with respect to claims 1 and 10, the rejection of claim 11 is requested to be withdrawn.

The arguments advanced above with respect to claim 1 are equally applicable to claim 12 and are incorporated herein with respect thereto. Further, with specific reference to claim 12, Zellner fails to describe a transcription entity as set forth in claim 12. The

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Examiner-identified portion of Zellner describes the contents of an emergency help request message transmitted from a service support provider to an emergency service center, not a transcription entity. Zellner fails to even describe message contents including a transcription of content provided by the content-provider entity, much less a transcription entity controllable by a party to play back at least selected portions of the content delivered. For either of these reasons and the reasons advanced above with respect to claims 1 and 11, the rejection of claim 12 is requested to be withdrawn.

The arguments advanced above with respect to claim 1 and with respect to the combination of Zellner with Amin and Goode in rejecting claim 10 are equally applicable and incorporated herein with respect to claim 13. Further, Zellner fails to describe a service-session functional entity and an associated service instance as recited in claim 13. The Office Action does not identify where in Zellner a service-session functional entity records the endpoint entities currently joined to a communication session and determines when a session instance is to add and remove endpoint entities. For at least this reason and for the reasons advanced above with respect to claims 1 and 10, the rejection of claim 13 is requested to be withdrawn.

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Applicants traverse the rejection of claim 14 under 35 U.S.C. §103(a) as being unpatentable over Amin and Goode in view of Lamb et al (U.S. 6,747,970).

The Office Action concedes that neither Amin nor Goode discloses that the state of connection of the content-provider entity to the transport mechanism is signaled to the session-service functional entity. While the Office Action attempts to cure the deficiency by combining the Lamb reference, nowhere does the Office Action identify any motivation or suggestion in the references teaching, suggesting, or describing the asserted combination. Rather, the asserted combination appears to be the product of improperly applied hindsight reasoning based on the present invention. The erroneous statement that the references are from a similar area still does not explain why the combination would be obvious to a person of ordinary skill in the art or why a person of ordinary skill would be motivated to make the combination.

Specifically, the Office Action fails to identify why a person of ordinary skill would be motivated to combine the telecommunication system using Lamb's user agents with Amin's communication architecture and Goode's video-on-demand system. In the Office Action, Goode is generally referred to as providing motivation for the asserted combination of references in order to improve the

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ability of the network to enable subscribers to control the presentation of information.

As already noted, MPEP 2143.01 quoting *Ex parte Levengood* dictates that absent some objective reason to combine the references, merely contending that modifications to the prior art to meet the claimed invention would have been well within the ordinary skill of the art is insufficient to establish a *prima facie* case of obviousness. The Office Action simply states that the references can be combined, which Appellants dispute, and does not offer any support for the desirability of making the combination. Therefore, the Office Action has failed to supply the requisite objective reasons to combine the applied references.

MPEP §2143.01 and *Al-Site Corp. v. VSI Int'l Inc.*, *supra*, require Examiners to identify a teaching, suggestion, or motivation in either reference or to provide an affidavit of facts within the personal knowledge of the Examiner per MPEP §2144.03 providing a motivation or suggestion to one of ordinary skill in the art to make the argued combination. No such disclosure in Goode, Amin, or Lamb has been identified and no affidavit has been provided because there is no teaching to be found. The Office Action also fails to identify or provide the "teaching, suggestion, or reason" to combine Goode, Amin, and Lamb required by *Winner International Royalty Corp. v. Wang* when an obviousness determination is based on multiple prior art

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references. Accordingly, the applied combination of references is improper, and a *prima facie* case of obviousness has not been established.

For at least the foregoing reasons, as well as the reasons advanced above with respect to claim 1, claim 14 is believed patentable over the applied combination of references, and withdrawal of the rejection is in order and respectfully requested.

All objections and rejections having been addressed, it is respectfully submitted that the present application is in condition for allowance. A Notice to that effect is earnestly solicited.

To the extent necessary during prosecution, Applicants hereby request any required extension of time not otherwise requested and hereby authorize the Commissioner to charge any prescribed fees not otherwise provided for, including application processing, extension of time, and extra claims fees, to Deposit Account No. 08-2025.

Respectfully submitted,

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references. Accordingly, the applied combination of references is improper, and a *prima facie* case of obviousness has not been established.

For at least the foregoing reasons, as well as the reasons advanced above with respect to claim 1, claim 14 is believed patentable over the applied combination of references, and withdrawal of the rejection is in order and respectfully requested.

All objections and rejections having been addressed, it is respectfully submitted that the present application is in condition for allowance. A Notice to that effect is earnestly solicited.

To the extent necessary during prosecution, Applicants hereby request any required extension of time not otherwise requested and hereby authorize the Commissioner to charge any prescribed fees not otherwise provided for, including application processing, extension of time, and extra claims fees, to Deposit Account No. 08-2025.

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